

ARTICLE 106-06

CRITERIA FOR AUTHORIZATION TO OPERATE POSTSECONDARY EDUCATIONAL INSTITUTIONS

Chapter

106-06-01 Criteria for Authorization to Operate Postsecondary Educational Institutions

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106-06-01-01 General regulations.

1. All postsecondary educational institutions, as defined in North Dakota Century Code section 15-20.4-01(7), which intend to operate in this state, shall obtain authorization to operate in the state of North Dakota unless exempt under North Dakota Century Code section 15-20.4-02.
2. Postsecondary educational institutions claiming to be exempt under North Dakota Century Code section 15-20.4-02 shall provide to the board, in writing, sufficient information supporting the exemption.
3. Postsecondary educational institutions not operating in this state may make voluntary application for authorization to operate a postsecondary educational institution in this state.
4. The application for postsecondary educational institutions operating in North Dakota or seeking voluntary authorization to operate shall include:
 - a. The name, address, and organizational structure of the postsecondary educational institution, a copy of the articles of incorporation, and the names and addresses of the current owners and corporate officers. Applicants operating in North Dakota must also enclose a copy of a current certificate from the North Dakota Secretary of State verifying registration,
 - b. The place or places where instruction will be offered,
 - c. Documentation of accreditation: Those institutions granting associate of arts or science, bachelors, masters or doctorate degrees must provide evidence of accreditation by an organization recognized by the Council for Higher Education Accreditation.

Those institutions granting associate of applied science degrees, diplomas, or certificates must provide evidence of accreditation by an organization recognized by the United States Department of Education. Institutions seeking provisional authorization to operate, see subsection 6.

- d. Catalogs, which shall include:
 - (1) Name and address of the postsecondary educational institution and date of publication,
 - (2) Names of administrative and instructional staff, governing body and officials,
 - (3) Entrance requirements and standards of progress,
 - (4) Outline of each program or course of instruction including course objectives and subjects or units in each course,
 - (5) A current schedule of tuition and other fees and the procedures for collecting and refunding tuition,
 - (6) Policies governing attendance, grading and student dismissal,
 - (7) Refund policy as specified in North Dakota Century Code 15-20.4-06,
- e. Relevant placement and follow-up information,
- f. A description of costs and payment methods,
- g. A copy of the enrollment contract or agreement,
- h. A current financial statement showing that the financial resources of the postsecondary educational institution are such as will ensure the fulfillment of its instructional and business obligations for at least a one-year period of operation. The financial statement must include a current balance sheet, income statement, and adequate supporting documentation prepared on an accrual basis by an independent public accountant or a certified public accountant. The information submitted must be signed by the accountant who prepared it and must contain that person's address and telephone number. Applicants for initial authorization to operate must submit a projected income statement for two years of operation.
- i. A list of administrative and instructional staff and their qualifications,
- j. A description of available space, facilities, equipment, and provisions for the health and safety of students,
- k. Copies of current promotional literature,
- l. Enrollment data,
- m. A surety bond issued by a surety company authorized to conduct business in this state, running to the State of North Dakota, by and through the State Board for Career and Technical Education, for the protection of the contractual rights of the students. The amount of the surety bond must be at least ten percent of the institution's total gross income as computed on the Gross Income Statement in Appendix A. The minimum bond, however, may not be less than ten thousand dollars, regardless of gross income. The bond must be in the amount of at least ten thousand to fifty thousand dollars, as determined by gross income. Institutions may provide a bond in an amount exceeding the required amount.

An institution that has no previous gross income from operating in this state that is seeking an initial provisional authorization to operate must provide a bond in an amount no less than ten thousand dollars, and may, at its own discretion, provide a bond exceeding ten thousand dollars.

If the board determines that a higher level of bonding is warranted for consumer protection purposes, the board may require a bond in an amount that exceeds the amount derived from calculations as described above.

Bonds must be in a format provided by the board. The institution must present evidence of payment of the bond premium for the renewal period.

- n. Non-refundable fees: the initial application fee is one thousand dollars; the renewal application fee is five hundred dollars. The fees must be paid by check or money order made payable to the North Dakota State Board for Career and Technical Education,
 - o. Any other information the board determines to be appropriate and necessary.
- 5. The board may submit application materials to designated experts for review and recommendation. The board may approve an authorization to operate an institution granting associate of arts or science, bachelors, masters, or doctorate degrees after considering a recommendation from the chancellor of the North Dakota University System or his designee.
 - 6. The State Board for Career and Technical Education will not grant a provisional authorization to operate to any out-of-state institution seeking to establish operations in North Dakota unless that institution, in its state of origin, has achieved accreditation as described in subdivision c of subsection 4. A postsecondary educational institution located in North Dakota seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the institution becomes eligible for accreditation by a recognized accrediting agency. Applicants seeking an initial provisional authorization to operate must provide the name of the accrediting agency selected, documentation of intent to undergo accreditation procedures by said agency, and a timetable for completion of accreditation procedures that is reasonable and based upon the accrediting agency's procedures. Applicants seeking renewal of a provisional authorization to operate must demonstrate substantial progress towards accreditation. The State Board will determine, based upon procedures established by the selected accrediting agency, whether substantial progress has been achieved. Only upon accreditation shall an institution become eligible for a regular authorization to operate.
 - 7. All authorizations to operate expire on the thirtieth day of June next following the date of issuance. Applications to renew an authorization to operate must be submitted to the board at least ninety days prior to the expiration date in a format prepared and furnished by the board.
 - 8. The board shall issue a letter to the applicant indicating approval of the application for authorization to operate upon determination that they have met the board's requirements. Those institutions denied an authorization to operate will receive written notice informing them of denial as well as the reasons for the denial.
 - 9. A person or persons purchasing an institution already operating as an approved institution shall comply with all the requirements for securing initial authorization to operate. Authorization does not automatically transfer to the new owner. Notification of a change of ownership should be made to the board requesting approval prior to the time the ownership change takes place.
 - 10. The director of an institution authorized to operate by the State Board for Career and Technical Education shall notify the board immediately if the institution discontinues or plans to discontinue its operation in the state.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

106-06-01-02. Distance education.

1. The board recognizes that requirements for facilities, equipment, and methods of instruction for distance education programs differ from traditional programs delivered on-site. However, so far as applicable, the institution will adhere to the basic standards as outlined in this chapter.
2. Institutions offering distance education programs seeking authorization to operate shall include the following additional items in the application:
 - a. The names and descriptions of programs of study intended for delivery by distance education modalities,
 - b. A complete description of the types of distance modalities to be used,
 - c. The names and qualifications of those providing technical assistance or support to students taking coursework via distance modalities.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

106-06-01-03 Curriculum requirements .

1. Educational objectives of programs of instruction should be clearly defined and simply stated. They should briefly indicate what the specific education program or course of instruction can do for reasonably diligent students.
2. If the program of instruction prepares students for an occupation, the program shall conform to standards and training practices generally accepted by the occupation for which students are being prepared.
3. Each curriculum shall be outlined in detail listing entrance requirements, course objectives, subjects or units in the course, type of work or skill to be learned as applicable, and length of the program in quarter credits, semester credits or clock hours. A "clock hour" is defined as comprising a period of sixty (60) minutes with a minimum of fifty minutes of instruction.
4. The programs offered by the institution are restricted to those specifically approved under its authorization to operate and at the location offered. An institution may apply to the board for approval of new programs by submitting required application information in a format prepared by the board.
5. An institution may not discontinue any program of instruction without a sixty-day notice to the board. The length or major content of any approved program of instruction may not be altered without notification to the board.
6. All programs of instruction shall be reviewed and evaluated by the board as part of the annual

renewal process.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

106-06-01-04 Administrative and instructional staff.

1. The institution must designate an individual as the director. That individual shall be directly responsible for the content and method of instruction, supervision of instructors, organization of classes, equipment, proper maintenance of student records, and student affairs.
2. An assistant director shall serve in the capacity of the director in his or her absence from the institution and shall be charged with similar responsibilities. One or more persons may be designated as the assistant director.
3. The director and assistant director must, through training or experience, have educational qualifications and work experience as a wage earner related to their areas of responsibility.
4. The director and assistant director must be high school graduates or equivalent and must have any two of the following qualifications:
 - a. A baccalaureate degree with a major in education or in a field in which training is offered.
 - b. Qualified experience for a minimum of two years in a specific field for which training is offered.
 - c. Two years of successful teaching experience in a specific field for which training is offered.
 - d. A minimum of one year of actual experience administering a school or institution or supervisory experience.
5. An instructor must have at least one of the following qualifications or an acceptable combination thereof:
 - a. A baccalaureate degree with a major in education or in a field in which training is offered.
 - b. Qualified experience for a minimum of two years in a specific field for which training is offered.
 - c. Two years of successful teaching experience in a specific field for which training is offered.
6. When a director, assistant director, or instructor is employed, the institution shall submit to the board appropriate information relative to the training, experience, and employment record of the individual within thirty days after employment.
7. The board must be notified in writing by the institution of the dismissal or resignation of a member of the administrative or instructional staff within 30 days thereof.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

106-06-01-05 Business Practices .

1. All correspondence, forms, and applications relating to the authorization of postsecondary educational institutions must be sent to the State Board for Career and Technical Education, Fifteenth Floor, Capitol Building, 600 East Boulevard Ave Department 270, Bismarck, ND 58505-0610. All original letters, surety bonds, forms, or applications shall become a part of the records of the board and may be retained by it. The mailing of letters, applications, forms, or other papers shall not constitute receipt of the same by the board unless sent by registered or certified mail, return receipt requested.
2. The school or institution must prominently display its current authorization letter, course approval, and schedule of operation where it may be inspected by students, the board, and representatives of the board.
3. Adequate records of the students' attendance, experience, scholarship, and progress, must be permanently retained by the institution. The institution must make progress, attendance, and conduct records available to students at their request and at a time convenient to the institution, and periodically issue grades and or progress reports.
4. Student records shall be retained and held subject to inspection by the board or its representatives at any time during the scheduled hours of operation of the institution.
5. The institution must make available to the board, at any time it is requested to do so, any and all relevant information concerning the operation of the institution.
6. All applications for enrollment in a postsecondary educational institution must be made in writing on forms provided by the institution.
7. The institution may not enter into an agreement, either verbal or written, to provide part-time employment as inducement for enrollment.
8. If production work is necessary as part of the institution's educational program, every effort shall be made to avoid unfair competition with private enterprise.
9. Failure to comply with North Dakota Century Code chapter 15-20.4 relating to postsecondary educational institutions or the board's rules will result in such action by the board as is warranted under the circumstances.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

106-06-01-06 Publicity and advertising.

1. Each institution shall use or advertise through any advertisement or piece of promotional literature only its authorized name and address.
2. An institution may not advertise or imply that the institution is "supervised", "recommended", "endorsed", "accredited", or "approved" by the board, or that it is in any way endorsed by the state of North Dakota. The institution may advertise that it is operating under North Dakota Century Code chapter 15-20.4 or by authorization of the State Board for Career and Technical Education.

3. An institution may not state in its advertising any tuition or fees in an amount other than that which is on file with the board.
4. The terms "university", "institute", or "college" must not be used in the name of the institution or in describing the institution unless there is written evidence from the board authorizing that institution to use such designation.
5. No owner, partner, officer, or employee acting on behalf of any institution shall make, prepare, or present any fraudulent statement, misrepresentation, or misleading statement of fact with respect to the institution, its personnel, its courses and services, or the occupational opportunities for its graduates.
6. A guarantee of placement for graduates must not be promised or implied by any institution or representative thereof. No institution, in its advertising or through its employees, shall guarantee or imply the guarantee of employment before enrollment, during the pursuance of the course, or after the course is completed. No institution shall guarantee any certain wage.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

106-06-01-07 Tuition and Fees.

1. Each institution must furnish the board with a schedule of its tuition and fees, identification of any supplementary costs, and methods of payment.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

106-06-01-08 Refund Policy.

1. Each institution must furnish the board with a refund policy which complies with North Dakota Century Code section 15-20.4-06.
2. An institution shall make an appropriate refund within thirty days of the date the student fails to enter or terminates training.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

106-06-01-09 Records Management .

1. The institution shall establish and maintain policies and procedures and have available for inspection a record keeping system as it relates to any required records referred to throughout these rules, including records relating to administration, instruction, and students.

General Authority: NDCC 15-20.4-03, 28-32-02

Law Implemented: NDCC 15-20.4-03

GROSS INCOME STATEMENT

Applicants must bond at a minimum of \$10,000 regardless of the result of the final calculation, above. Applicants seeking an initial, provisional authorization to operate must provide a bond of at least \$10,000.

NORTH DAKOTA STATE BOARD FOR CAREER AND TECHNICAL EDUCATION

POSTSECONDARY EDUCATIONAL SCHOOL/INSTITUTION PERFORMANCE BOND

BOND NO: _____

KNOW ALL MEN BY THESE PRESENTS: That we _____
(Name of School or Institution)

located at _____ as principal (hereinafter
(Street) (City) (State) (Zip)

called Principal), and _____ of _____.
(Name of Surety Company) (Street) (City) (State) (Zip)

a corporation duly licensed to do business in the state of North Dakota, as Surety (hereinafter called Surety), are held and firmly bound unto the STATE OF NORTH DAKOTA, (hereinafter called Obligee), in the sum of _____ DOLLARS, lawful money of the United States of America, for payment of which, well and truly to be made, we bind ourselves, each of our heirs, executors, administrators, representatives, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION that whereas the Principal has been duly authorized to operate, has applied or intends to apply for authorization to operate a postsecondary educational institution pursuant to Chapter 15-20.4 of the North Dakota Century Code.

NOW, THEREFORE, if the Principal and its employees shall faithfully and honestly comply with all of the provisions under said law, all rules and regulations promulgated in pursuance thereof, and shall faithfully perform all contracts and agreements entered into between the Principal and all persons enrolling as students with the Principal, then this obligation shall be void, otherwise, the obligation shall remain in full force and effect.

Any person injured by the breach of conditions of such bond may bring an action on the paid Bond in the name of the State of North Dakota for the use of such person so injured to recover legal damages suffered by reason of such breach; provided, however, that the aggregate liability of the Surety for all such damages shall, in no event, exceed the sum of said bond.

SIGNED AND SEALED with our seals and dated the ____ day of _____, 20__.

(Name of Principal)

by: _____
(Signature for Principal)

Countersigned by: _____
(Title of Person Signing)

(North Dakota Resident Agent)

(Name of Surety Company)

(Agent's Address) by: _____
(Attorney-in-Fact/Surety)

Attorney-in-Fact must attach a valid Power of Attorney from Surety.

If Principal is a corporation, officer signing must attach resolution authorizing execution.

ACKNOWLEDGEMENT OF PRINCIPAL

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20____,

IF BY INDIVIDUAL
USE THIS FORM

before me appeared, the undersigned, a Notary Public in and for
said County and State, personally appeared _____,
known to me to be the person who is described in and who executed the
within instrument as principal, and he acknowledged to me that he
executed the same.

- OR -

IF BY CO-PARTNERSHIP
USE THIS FORM

personally appeared _____
known to me to be one of the members of the co-partnership of _____

_____ and the person who is described in and who executed the within
instrument for and in behalf of said co-partnership as principal, and he
acknowledged to me that he executed the same for said co-partnership.

- OR -

IF BY CORPORATION
USE THIS FORM

personally appeared _____
known to be to be the _____
of the corporation that is described in and that executed the within
instrument as principal, and he acknowledged to me that such
corporation executed the same.

(SEAL)

NOTARY PUBLIC

My commission expires _____

ACKNOWLEDGEMENT OF SURETY

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 19____,

before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, and _____ known to me to be the _____ and _____ respectively of the corporation that is described in and that executed the within instrument as surety, and they acknowledged to me that such corporation executed the same.

- OR -

personally appeared _____ known to me to be the person who is described in and whose name is subscribed to the within instrument as the attorney-in-fact of _____, and he acknowledged to me that he subscribed the name of _____ thereto as surety, and his own name as attorney-in-fact.

(SEAL)

NOTARY PUBLIC

My commission expires _____